

AMENDED IN SENATE MAY 3, 2000
AMENDED IN SENATE APRIL 25, 2000
AMENDED IN SENATE APRIL 6, 2000
AMENDED IN SENATE MARCH 29, 2000
AMENDED IN SENATE MARCH 23, 2000
AMENDED IN ASSEMBLY MAY 3, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1416

Introduced by Assembly Member Wesson
(Principal coauthor: Senator Perata)

February 26, 1999

An act to amend Sections 19805, and 19950.2 of, and to add Sections 19834.7, 19950.3, and 19980 to, the Business and Professions Code, and to add Section 330.11 to the Penal Code, relating to gambling establishments, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1416, as amended, Wesson. Gambling establishments.

(1) Existing law, the Gambling Control Act, provides for the regulation, oversight, and licensure of gambling establishments, and the owners and employees thereof, by the California Gambling Control Commission and the Division of Gambling Control. Existing law prohibits a list of specified gambling games or any banking or percentage game played

with cards, dice, or any device, for money, checks, credit, or any representative of value, and provides that any person who offers for play or participates in these games is guilty of a misdemeanor and is punishable as specified.

This bill would authorize gambling establishments to operate controlled games utilizing a player-dealer position, as defined, and to contract with a 3rd party for the provision of proposition player services subject to specified conditions and regulatory requirements.

This bill would specify that the rules of a controlled game utilizing a player-dealer position shall require that the person occupying this position be at risk only for the amount wagered on that hand, that the player-dealer position continuously and systematically rotate among the seated players, and no player be allowed to dominate the game by occupying this position for more than 2 consecutive hands. The bill would provide that no person or entity licensed under the act shall conduct, operate, or offer for play any banked game, as defined, or allow a banked game to be conducted on the premises of any licensed gambling establishment, and that neither the house, nor any owner or on-duty employee of a licensed gambling establishment shall occupy a player-dealer position in any controlled game or share or participate in the winnings or profits of any player except with respect to the payment of lawful table fees.

(2) Existing law generally requires voter approval of an amendment to a local ordinance that would result in the expansion of gambling, as defined, but exempts licensed gambling establishments with 5 or fewer tables from this restriction. Existing law also provides that until January 1, 2001, no local jurisdiction that had not authorized legal gaming prior to January 1, 1996, shall do so, and that no gaming ordinance in effect on that date may be amended to expand gaming. Existing law extends this moratorium until January 1, 2003, with respect to the Counties of Alameda, Contra Costa, Los Angeles, San Mateo, and Santa Clara.

This bill would provide that the above restriction shall apply in all counties until ~~December 31, 2006~~ *January 1, 2007*, and would additionally provide that until ~~December 31, 2006~~ *January 1, 2007*, neither the commission nor the division shall



issue a license for a gambling establishment that was not licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the division prior to September 1, 2000.

(3) Existing law provides that every person who deals, plays, carries on, opens, or conducts, or who plays or bets at or against any banking game is guilty of a misdemeanor and is punishable as specified.

This bill would provide that “banking game” or “banked game,” as used in the above prohibition and in the Gambling Control Act, means any game in which the gambling establishment, house, or any other individual or entity acts as a player in the game, with an interest in its outcome, and covers all bets in the game, collecting from all losers and paying all winners, as is the practice in casinos located in the States of Nevada and New Jersey. The bill would specify that “banking game” or “banked game” does not include a controlled game that features a player-dealer position as authorized in (1). By changing the definition of a crime, this bill would impose a state-mandated local program.

(4) This bill would provide that if any of its provisions, or the application thereof, are held invalid, that these provisions are severable from the remainder of the provisions.

(5) This bill would state findings and declarations of the Legislature, and would also make various technical changes to the act to implement these provisions, as well as technical, nonsubstantive changes, as specified. Because this bill would impose new regulatory requirements, violations of which would be punishable as misdemeanors, this bill would impose a state-mandated local program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares as
2 follows:

3 (a) In 1983 and 1984 California card clubs played
4 games with cards involving a player-dealer position in
5 which players were afforded the temporary opportunity
6 to wager against multiple players at the table where the
7 player-dealer position continuously and systematically
8 rotated among the players, prior to the amendment of
9 Section 19 of Article IV of the California Constitution by
10 the California State Lottery Act in 1984.

11 (b) The amendment to Section 19 of Article IV of the
12 Constitution declared:

13
14 “The Legislature has no power to authorize, and shall
15 prohibit casinos of the type currently operating in
16 Nevada and New Jersey.”

17
18 Casinos operating in 1983 and 1984 in the States of
19 Nevada and New Jersey did not include card games
20 featuring a player-dealer position which continuously
21 and systematically rotates among the players. In Nevada
22 and New Jersey, comparable games are banked only by
23 the house, which is a participant in the game, with an
24 interest in its outcome, and which covers all bets in the
25 game, paying all winners and collecting from all losers.

26 (c) In *Hotel Employees & Restaurant Employees v.*
27 *Davis* (1999) 21 Cal. 4th 585, the California Supreme
28 Court recently stated at page 605 that:

29
30 “...(t)he type” of casino “operating in Nevada and New
31 Jersey” presumably refers to a gambling facility that did
32 not legally operate in California; something other, that is,
33 than “the type” of casino “operating” in California.”

34 SEC. 2. Section 19805 of the Business and Professions
35 Code is amended to read:

36 19805. As used in this chapter, the following
37 definitions shall apply:

1 (a) “Affiliate” means a person who, directly or
2 indirectly through one or more intermediaries, controls,
3 is controlled by, or is under common control with, a
4 specified person.

5 (b) “Applicant” means any person who has applied
6 for, or is about to apply for, a state gambling license, a key
7 employee license, a registration, a finding of suitability, a
8 work permit, a manufacturer’s or distributor’s license, or
9 an approval of any act or transaction for which the
10 approval or authorization of the commission or division is
11 required or permitted under this chapter.

12 (c) “Banking game” or “banked game,” as used in this
13 chapter and in Section 330 of the Penal Code, means any
14 game in which the gambling establishment, house, or any
15 other individual or entity acts as a player in the game,
16 with an interest in its outcome, and covers all bets in the
17 game, collecting from all losers and paying all winners, as
18 is the practice in casinos located in the States of Nevada
19 and New Jersey. “Banking game” or “banked game” does
20 not include a controlled game that features a
21 player-dealer position as authorized in Section 19834.7.

22 (d) “Board” means the California Gambling Control
23 Board.

24 (e) “Commission” means the California Gambling
25 Control Commission.

26 (f) “Controlled gambling” means to deal, operate,
27 carry on, conduct, maintain, or expose for play any
28 controlled game.

29 (g) “Controlled game” means any controlled game, as
30 defined by subdivision (e) of Section 337j of the Penal
31 Code.

32 (h) “Director,” when used in connection with a
33 corporation, means any director of a corporation or any
34 person performing similar functions with respect to any
35 organization. In any other case, “director” means the
36 Director of the Division of Gambling Control.

37 (i) “Division” means the Division of Gambling
38 Control in the Department of Justice.

39 (j) “Finding of suitability” means a finding that a
40 person meets the qualification criteria described in

1 subdivisions (a) and (b) of Section 19848, and that the
2 person would not be disqualified from holding a state
3 gambling license on any of the grounds specified in
4 subdivision (a) of Section 19850.

5 (k) “Game” and “gambling game” means any
6 controlled game.

7 (l) “Gambling” means to deal, operate, carry on,
8 conduct, maintain, or expose for play any controlled
9 game.

10 (m) “Gambling enterprise employee” means any
11 natural person employed in the operation of a gambling
12 enterprise, including, without limitation, dealers,
13 floormen, security employees, countroom personnel,
14 cage personnel, collection personnel, surveillance
15 personnel, data processing personnel, appropriate
16 maintenance personnel, waiters and waitresses, and
17 secretaries, or any other natural person whose
18 employment duties require or authorize access to
19 restricted gambling establishment areas.

20 (n) “Gambling establishment,” “establishment,” or
21 “licensed premises” means one or more rooms where any
22 controlled gambling or activity directly related thereto
23 occurs.

24 (o) “Gambling license” or “state gambling license”
25 means any license issued by the state that authorizes the
26 person named therein to conduct a gambling operation.

27 (p) “Gambling operation” means exposing for play
28 one or more controlled games that are dealt, operated,
29 carried on, conducted, or maintained for commercial
30 gain.

31 (q) “Gross revenue” means the total of all
32 compensation received for conducting any controlled
33 game, and includes interest received in payment for
34 credit extended by an owner licensee to a patron for
35 purposes of gambling, except as provided by regulation.

36 (r) “House” means the gambling establishment, and
37 any owner, shareholder, partner, key employee, or
38 landlord thereof.



1 (s) “Independent agent,” except as provided by
2 regulation, means any person who does either of the
3 following:

4 (1) Collects debt evidenced by a credit instrument.

5 (2) Contracts with an owner licensee, or an affiliate
6 thereof, to provide services consisting of arranging
7 transportation or lodging for guests at a gambling
8 establishment.

9 (t) “Institutional investor” means any retirement
10 fund administered by a public agency for the exclusive
11 benefit of federal, state, or local public employees, any
12 investment company registered under the Investment
13 Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), any
14 collective investment trust organized by banks under
15 Part Nine of the Rules of the Comptroller of the
16 Currency, any closed-end investment trust, any
17 chartered or licensed life insurance company or property
18 and casualty insurance company, any banking and other
19 chartered or licensed lending institution, any investment
20 advisor registered under the Investment Advisors Act of
21 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that capacity,
22 and other persons as the board may determine for reasons
23 consistent with the policies of this chapter.

24 (u) “Key employee” means any natural person
25 employed in the operation of a gambling enterprise in a
26 supervisory capacity or empowered to make
27 discretionary decisions that regulate gambling
28 operations, including, without limitation, pit bosses, shift
29 bosses, credit executives, cashier operations supervisors,
30 gambling operation managers and assistant managers,
31 managers or supervisors of security employees, or any
32 other natural person designated as a key employee by the
33 division for reasons consistent with the policies of this
34 chapter.

35 (v) “Key employee license” means a state license
36 authorizing the holder to be associated with a gambling
37 enterprise as a key employee.

38 (w) “Licensed gambling establishment” means the
39 gambling premises encompassed by a state gambling
40 license.

1 (x) “Limited partnership” means a partnership
2 formed by two or more persons having as members one
3 or more general partners and one or more limited
4 partners.

5 (y) “Limited partnership interest” means the right of
6 a general or limited partner to any of the following:

7 (1) To receive from a limited partnership any of the
8 following:

9 (A) A share of the revenue.

10 (B) Any other compensation by way of income.

11 (C) A return of any or all of his or her contribution to
12 capital of the limited partnership.

13 (2) To exercise any of the rights provided under state
14 law.

15 (z) “Owner licensee” means an owner of a gambling
16 enterprise who holds a state gambling license.

17 (aa) “Person,” unless otherwise indicated, includes a
18 natural person, corporation, partnership, limited
19 partnership, trust, joint venture, association, or any other
20 business organization.

21 (ab) “Player” means a patron of a gambling
22 establishment who participates in a controlled game.

23 (ac) “Player-dealer” and “controlled game featuring
24 a player-dealer position” refer to a position in a controlled
25 game, as defined by the approved rules for that game, in
26 which players are afforded the temporary opportunity to
27 wager against multiple players at the same table,
28 provided that this position is continuously and
29 systematically rotated among the seated players in the
30 game. As used in this subdivision, “continuously and
31 systematically rotated” means that one player may not
32 hold the player-dealer position for more than two
33 consecutive hands.

34 (ad) “Publicly traded racing association” means a
35 corporation licensed to conduct horse racing and
36 simulcast wagering pursuant to Chapter 4 (commencing
37 with Section 19400) whose stock is publicly traded.

38 (ae) “Qualified racing association” means a
39 corporation licensed to conduct horse racing and
40 simulcast wagering pursuant to Chapter 4 (commencing

1 with Section 19400) that is a wholly owned subsidiary of
2 a corporation whose stock is publicly traded.

3 (af) “Work permit” means any card, certificate, or
4 permit issued by the division or by a county, city, or city
5 and county, whether denominated as a work permit,
6 registration card, or otherwise, authorizing the holder to
7 be employed as a gambling enterprise employee or to
8 serve as an independent agent. A document issued by any
9 governmental authority for any employment other than
10 gambling is not a valid work permit for the purposes of
11 this chapter.

12 SEC. 3. Section 19834.7 is added to the Business and
13 Professions Code, to read:

14 19834.7. (a) It is the intent of the Legislature that this
15 section shall be dispositive of the law regarding the
16 operation of controlled games featuring a player-dealer
17 position in licensed gambling establishments in
18 California.

19 (b) No person or entity licensed pursuant to this
20 chapter shall conduct, operate, or offer any banked game,
21 or allow such a game to be conducted on the premises of
22 any licensed gambling establishment.

23 (c) (1) A banked game is any wagering game where
24 the house or gambling establishment is a participant in
25 the game, with an interest in the outcome of any wager,
26 and covers all bets made in the game, paying all winners
27 and collecting from all losers.

28 (2) With respect to licensed gambling establishments
29 only, a game is not a banked game merely because the
30 rules of the game allow a player, who does not represent
31 the interest of the house, to occupy the position of
32 player-dealer, provided that this position is continuously
33 and systematically rotated among seated players, that the
34 person occupying the player-dealer position is only at risk
35 for the amount wagered on that hand, and that no player
36 is allowed to dominate the game by occupying the
37 player-dealer position for more than two consecutive
38 hands. This section shall not be construed to allow the
39 house to bank any game.

(d) It shall be a violation of this chapter for the house or any owner or employee of a licensed gambling establishment to deal, carry on, or open or cause to be opened, any banked game played for money, checks, credit, or other representative of value.

(e) Neither the commission nor the division shall authorize the play of any controlled game featuring a player-dealer position if the rules of that game would: (1) allow a player to participate in that game in a manner that would not comply with minimal player-dealer rotation requirements and allow that player to dominate the game by occupying the player-dealer position for more than two consecutive hands, or (2) if the rules of that game do not require the player-dealer position to continuously and systematically rotate among the seated players who wish to occupy that position.

(f) An owner or employee of a licensed gambling establishment may deal, carry on, or open or cause to be opened at the gambling establishment an authorized controlled game featuring a player-dealer position, provided that the game is operated in compliance with subdivision (e). It shall be a violation of this chapter for the house or any owner or on-duty employee of a licensed gambling establishment to act as the player-dealer in any game, or to share or participate in the winnings or profits of any player participating in the play of that game, except with respect to the payment of a lawful table fee.

SEC. 4. Section 19950.2 of the Business and Professions Code is amended to read:

19950.2. (a) On and after the effective date of this chapter, neither the governing body nor the electors of a county, city, or city and county that has not authorized legal gaming within its boundaries prior to January 1, 1996, shall authorize legal gaming.

(b) No ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county may be amended to expand gaming in that jurisdiction beyond that permitted on January 1, 1996.

(c) This section shall remain operative only until ~~December 31, 2006~~ *January 1, 2007*, and as of that date is repealed.

SEC. 5. Section 19950.3 is added to the Business and Professions Code, to read:

19950.3. (a) In addition to any other limitations on the expansion of gambling imposed by Section 19950.2 or any provision of this chapter, neither the commission nor the division shall issue a gambling license for a gambling establishment that was licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the division prior to September 1, 2000.

(b) This section shall remain in effect only until ~~December 31, 2006~~ *January 1, 2007*, and as of that date is repealed, unless a later enacted statute, that is enacted before ~~December 31, 2006~~ *January 1, 2007*, deletes or extends that date.

SEC. 6. Section 19980 is added to the Business and Professions Code, to read:

19980. Notwithstanding any other provision of law, a licensed gambling establishment may contract with a third party for the purpose of providing proposition player services, subject to the following conditions:

(a) Any agreement, contract, or arrangement between a gambling establishment and a third-party provider of proposition player services shall be approved in advance by the division, and in no event shall a gambling establishment or the house have any interest, whether direct or indirect, in funds wagered, lost, or won by any proposition player.

(b) The commission, may establish reasonable criteria for, and require the licensure and registration of, any person or entity that provides proposition player services to gambling establishments pursuant to this section, including owners, supervisors, and players. The commission may impose licensing requirements, disclosures, approvals, conditions, or limitations as it deems necessary to protect the integrity of controlled gambling in this state, and may assess and collect

1 reasonable fees and deposits as necessary to defray the
2 costs of providing this regulation and oversight.

3 (c) The division, pursuant to regulations of the
4 commission, is empowered to perform background
5 checks, financial audits, and other investigatory services
6 as needed to assist the commission in regulating third
7 party providers of proposition player services, and may
8 assess and collect reasonable fees and deposits as
9 necessary to defray the costs of providing this regulation
10 and oversight.

11 (d) No agreement or contract between a licensed
12 gambling establishment and a third party concerning the
13 provision of proposition player services shall be
14 invalidated or prohibited by the division pursuant to
15 subdivision (a) until the commission establishes criteria
16 for, and makes determinations regarding the licensure or
17 registration of, the provision of these services pursuant to
18 subdivision (b).

19 SEC. 7. Section 330.11 is added to the Penal Code, to
20 read:

21 330.11. “Banking game,” as used in Section 330, means
22 any game in which the gambling establishment, house, or
23 any other individual or entity acts as a player in the game,
24 with an interest in its outcome, and covers all bets in the
25 game, collecting from all losers and paying all winners, as
26 is the practice in casinos located in the States of Nevada
27 and New Jersey. “Banking game” does not include a
28 controlled game that features a player-dealer position as
29 authorized in Section 19834.7 of the Business and
30 Professions Code.

31 SEC. 8. The provisions of this act are severable. If any
32 provision of this act, or the application thereof, is held
33 invalid, that invalidity shall not affect other provisions or
34 applications that can be given effect without the invalid
35 provision or application.

36 SEC. 9. No reimbursement is required by this act
37 pursuant to Section 6 of Article XIII B of the California
38 Constitution because the only costs that may be incurred
39 by a local agency or school district will be incurred
40 because this act creates a new crime or infraction,

1 eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition
4 of a crime within the meaning of Section 6 of Article
5 XIII B of the California Constitution.

6 SEC. 10. This act is an urgency statute necessary for
7 the immediate preservation of the public peace, health,
8 or safety within the meaning of Article IV of the
9 Constitution and shall go into immediate effect. The facts
10 constituting the necessity are:

11 In order to reduce confusion and to ensure at the
12 earliest possible time that gambling establishments are
13 able to operate within the law with respect to controlled
14 games featuring a player dealer position, to provide the
15 California Gambling Control Commission and Division
16 of Gambling Control with necessary regulatory
17 guidelines and enforcement powers, and to impose
18 reasonable limits on the further expansion of gambling, it
19 is necessary that this act take effect immediately.

